

THURSDAY, JANUARY 28, 2016

THIRTY-SIXTH LEGISLATIVE DAY

The House met at 9:00 a.m. and was called to order by Madam Speaker Harwell.

The proceedings were opened with prayer by Reverend Phillip C. Senn, Fort Hudson Baptist Church, Troy, TN.

Representative Sanderson led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present..... 91

Representatives voting aye were: Akbari, Alexander, Armstrong, Beck, Brooks H., Brooks K., Butt, Byrd, Calfee, Camper, Carr, Carter, Casada, Clemmons, Cooper, Daniel, Doss, Dunlap, Dunn, Eldridge, Faison, Farmer, Favors, Fitzhugh, Forgety, Gilmore, Goins, Gravitt, Hardaway, Hawk, Hicks, Hill M., Hill T., Holsclaw, Holt, Howell, Hulsey, Jenkins, Jernigan, Johnson, Jones, Kane, Keisling, Kumar, Lamberth, Littleton, Lollar, Love, Lundberg, Lynn, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller, Mitchell, Moody, Parkinson, Pitts, Pody, Powell, Powers, Ragan, Reedy, Rogers, Sanderson, Sargent, Sexton C., Sexton J., Shaw, Shepard, Smith, Sparks, Spivey, Stewart, Swann, Terry, Towns, Travis, Turner, Van Huss, Weaver, White D., White M., Williams, Windle, Wirgau, Zachary, Madam Speaker Harwell
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EXCUSED

The Speaker announced that the following members have been excused, pursuant to requests under **Rule No. 20**:

Representative Ramsey; illness

Representative Hazlewood; personal

Representative Halford; personal

Representative Womick; personal

Representative Todd; illness

Representative Coley; illness

Representative Durham; personal

PRESENT IN CHAMBER

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Rep. DeBerry was recorded as being present in the Chamber.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Joint Resolution No. 542 Reps. Clemmons and Hardaway as prime sponsors.

INTRODUCTION OF RESOLUTIONS

On motion, pursuant to **Rule No. 17**, the following resolutions listed were introduced and referred to the appropriate Committee:

***House Resolution No. 143** -- Court Rules - Ratifies and approves the amendments and revisions to the Tennessee Rules of Civil Procedure, as adopted by the supreme court. by *Lundberg.

House Civil Justice Committee

***House Resolution No. 144** -- Court Rules - Ratifies and approves the amendments and revisions to the Tennessee Rules of Appellate Procedure, as adopted by the supreme court. by *Lundberg.

House Civil Justice Committee

***House Resolution No. 145** -- Court Rules - Ratifies and approves the amendments and revisions to the Tennessee Rules of Juvenile Procedure, as adopted by the supreme court. by *Lamberth.

House Criminal Justice Committee

***House Resolution No. 146** -- Court Rules - Ratifies and approves the amendments and revisions to the Tennessee Rules of Juvenile Procedure, Rule 204, as adopted by the supreme court. by *Lamberth.

House Criminal Justice Committee

***House Resolution No. 147** -- Court Rules - Ratifies and approves the amendments and revisions to the Tennessee Rules of Criminal Procedure, as adopted by the supreme court. by *Lamberth.

House Criminal Justice Committee

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolutions were introduced and placed on the Consent Calendar for February 1, 2016:

House Resolution No. 148 -- Memorials, Recognition - Eugenia Curtis. by *Doss, *Marsh.

House Joint Resolution No. 545 -- Memorials, Recognition - Mike Grainger. by *Sargent, *McDaniel.

House Joint Resolution No. 546 -- Memorials, Sports - Trezevant High School, 2A state football champs. by *Miller, *Parkinson.

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

House Bill No. 2620 -- School Districts, Special - As introduced, pursuant to the request of the Franklin special school district of Williamson County, permits the district to issue bonds or notes in an amount not to exceed \$12 million and to issue bond anticipation notes in an amount not to exceed \$12 million. - Amends Chapter 563 of the Private Acts of 1949, as amended. by *Casada.

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

House Bill No. 2619 -- Medina -- House Local Government Committee

CONSENT CALENDAR

House Resolution No. 141 -- Memorials, Personal Occasion - Roy W. Ellison, 100th birthday. by *Brooks H.

House Resolution No. 142 -- Memorials, Recognition - Joseph Sanford Manning. by *Hazlewood.

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House Joint Resolution No. 538 -- Memorials, Recognition - W.V. Roberson. by
*Hazlewood.

House Joint Resolution No. 539 -- Memorials, Recognition - Eliza Smith. by *Jenkins.

House Joint Resolution No. 540 -- Memorials, Death - Noble J.D. Grinder. by
*Jenkins.

House Joint Resolution No. 541 -- Memorials, Professional Achievement - Toney
Armstrong, Director of Police Services, Memphis PD. by *Parkinson.

House Joint Resolution No. 542 -- Memorials, Recognition - American Heart
Association Go Red for Women. by *Gilmore.

House Joint Resolution No. 544 -- Memorials, Retirement - Freddie Brooks,
retirement, Chattanooga Fire Department. by *Favors.

Senate Joint Resolution No. 470 -- Memorials, Retirement - Lt. Preston Donaldson,
Tennessee Highway Patrol. by *Roberts.

Rep. Parkinson moved that all members of the Shelby County delegation be added to
House Joint Resolution No. 541 as co-prime sponsors, which motion prevailed with the following
members not added pursuant to the signed Sponsor Exclusion form: Reps. Butt, Pody, Ragan
and Womick.

Rep. Gilmore moved that all female members be added to House Joint Resolution No.
542 as co-prime sponsors as well as any males wanting to be added, which motion prevailed
with the following members not added pursuant to the signed Sponsor Exclusion form: Reps.
Butt, Pody, Ragan and Womick.

Rep. H. Brooks moved that all members voting aye on House Resolution No. 141 be
added as co-prime sponsors with Knox County delegation listed first, which motion prevailed
with the following members not added pursuant to the signed Sponsor Exclusion form: Reps.
Butt, Pody, Ragan and Womick.

Pursuant to **Rule No. 50**, Rep. Dunn moved that all House Bills having companion
Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate
House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final
consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate
Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the
following vote:

Ayes	90
Noes	0

Representatives voting aye were: Akbari, Alexander, Armstrong, Beck, Brooks H.,
Brooks K., Butt, Byrd, Calfee, Camper, Carr, Carter, Casada, Clemmons, Cooper, Daniel, Doss,
Dunlap, Dunn, Eldridge, Faison, Farmer, Favors, Fitzhugh, Forgety, Gilmore, Goins, Gravitt,

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Hardaway, Hawk, Hicks, Hill M., Hill T., Holsclaw, Holt, Howell, Hulsey, Jenkins, Jernigan, Johnson, Kane, Keisling, Kumar, Lamberth, Littleton, Lollar, Love, Lundberg, Lynn, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller, Mitchell, Moody, Parkinson, Pitts, Pody, Powell, Powers, Ragan, Reedy, Rogers, Sanderson, Sargent, Sexton C., Sexton J., Shaw, Shepard, Smith, Sparks, Spivey, Stewart, Swann, Terry, Towns, Travis, Turner, Van Huss, Weaver, White D., White M., Williams, Windle, Wirgau, Zachary, Madam Speaker Harwell
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A motion to reconsider was tabled.

MESSAGE CALENDAR

HOUSE ACTION ON SENATE MESSAGES

***Senate Bill No. 1** -- Judges and Chancellors - As introduced, establishes the procedure for the appointment, confirmation, and retention of appellate court judges pursuant to Article VI, Section 3 of the Constitution of Tennessee. - Amends TCA Title 2; Title 4; Title 6; Title 16; Title 17 and Title 38. by *Kelsey, *Stevens. (HB142 by *Lundberg)

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL NO. 1**

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on Senate Bill No. 1 (House Bill No. 142) has met and recommends that the following amendments be deleted:

House Amendments No. 6 (drafting code 6924) and 7 (drafting code 6922) and Senate Amendment No. 2 (drafting code 6587).

The Committee further recommends that the following amendment be adopted:

by deleting everything after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 5, Part 1, is amended by adding the following new section:

2-5-107.

This part shall not apply to a retention election in which a judge of the supreme court, the court of appeals, or the court of criminal appeals seeks election to fill the office to which the incumbent judge was appointed and confirmed. Title 17, chapter 4, part 1 shall govern such elections.

SECTION 2. Tennessee Code Annotated, Section 16-3-101(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) A judge must have been a resident of the grand division from which the judge is appointed for at least one (1) year immediately preceding appointment. For purposes of this subsection (b), "resident" has the same meaning as defined in § 2-1-104.

SECTION 3. Tennessee Code Annotated, Section 16-3-101(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) Each judge shall be at least thirty-five (35) years of age at the time of appointment, shall have been a resident of the state for at least five (5) consecutive years immediately preceding appointment, and shall be licensed to practice law in this state. For purposes of this subsection (c), "resident" has the same meaning as defined in § 2-1-104.

SECTION 4. Tennessee Code Annotated, Section 16-4-102, is amended by deleting the section in its entirety and substituting instead the following:

16-4-102.

(a) The court of appeals shall be composed of twelve (12) judges, of whom no more than four (4) shall be residents of the same grand division of the state. Immediately preceding appointment, each judge shall be at least thirty (30) years of age, shall have been a resident of the state for at least five (5) consecutive years, shall have been a resident of the grand division from which the judge is appointed for at least one (1) year, and shall be licensed to practice law in this state. For purposes of this subsection (a), "resident" has the same meaning as defined in § 2-1-104.

(b) The oaths of office of the judges of the court of appeals shall be filed and entered on the minutes of the court in the particular grand division from which the judge has been appointed and confirmed or subsequently elected. The oath shall likewise be filed and entered on the records in the office of the secretary of state at Nashville.

(c) The judges of the court of appeals shall be elected by the qualified voters of the state in a statewide retention election conducted in accordance with title 17, chapter 4, part 1. Vacancies on the court of appeals shall be filled by the governor in accordance with title 17, chapter 4, part 1.

SECTION 5. Tennessee Code Annotated, Section 16-5-102, is amended by deleting the second sentence and substituting instead the following:

Immediately preceding appointment, each judge shall be at least thirty (30) years of age, shall have been a resident of the state for at least five (5) consecutive years, shall have been a resident of the grand division from which the judge is appointed for at least one (1) year. For purposes of this section, "resident" has the same meaning as defined in § 2-1-104.

SECTION 6. Tennessee Code Annotated, Section 17-1-103, is amended by deleting the section in its entirety and substituting instead the following:

(a) The judges of the supreme court, the court of appeals, and the court of criminal appeals shall be elected by the qualified voters of the state in a statewide retention election conducted in accordance with chapter 4, part 1 of this title, and any appointments to fill a vacancy or a full eight-year term shall be made in accordance with chapter 4, part 1 of this title.

(b) The chancellors, circuit court judges, criminal court judges, and judges of any other state trial court of record shall be elected by the qualified voters of their respective judicial districts, as provided in the general election law set forth in title 2, and any appointments due to a vacancy in any of these offices shall be made in accordance with chapter 4, part 3 of this title.

SECTION 7. Tennessee Code Annotated, Section 17-1-301, is amended by deleting the section in its entirety and substituting instead the following:

(a) If a vacancy occurs during the term of office of a judge of the supreme court, the court of appeals, or the court of criminal appeals, then the governor shall appoint a qualified person to fill the vacancy. The governor's appointee shall be confirmed and shall stand for election in a retention election in accordance with chapter 4, part 1 of this title.

(b) If a vacancy occurs in the office of a chancellor, circuit court judge, criminal court judge, or judge of any other state trial court of record, the vacancy shall be filled in accordance with chapter 4, part 3 of this title.

SECTION 8. Tennessee Code Annotated, Section 17-1-302, is amended by deleting the section in its entirety.

SECTION 9. Tennessee Code Annotated, Section 17-4-101, is amended by deleting the section in its entirety and substituting instead the following:

17-4-101.

(a) The governor shall appoint a qualified person to the supreme court, the court of appeals, or the court of criminal appeals:

(1) For a full eight-year term whenever an incumbent judge of the supreme court, the court of appeals, or the court of criminal appeals fails to file with the state election commission a written declaration of candidacy or withdraws a declaration of candidacy within the deadlines established by § 17-4-106 or is not retained in a retention election held at the end of an eight-year term; or

(2) To fill a vacancy occurring as a result of death, resignation, retirement, failure to be retained at a retention election held any time other than the end of an eight-year term, or otherwise.

(b) The governor's appointee shall not take office until the appointee has been confirmed by the general assembly by vote or by default as provided in this part.

(c) Upon notice of an impending vacancy, the process of appointment and confirmation in accordance with this part may proceed; however, a confirmed appointee shall not take office until the vacancy actually occurs.

SECTION 10. Tennessee Code Annotated, Section 17-4-102, is amended by deleting the section in its entirety and substituting instead the following:

17-4-102.

(a) Immediately upon making an appointment to the supreme court, the court of appeals, or the court of criminal appeals, the governor shall provide written notice of the appointment to the chief clerk of the senate and the chief clerk of the house of /s/ Representatives. The notice shall specify whether the appointment is for a full eight-year term or for the filling of a vacancy. Delivery of the notice of appointment to both the chief clerk of the senate and the chief clerk of the house of /s/ Representatives shall begin the appropriate sixty-day period established in accordance with § 17-4-103. Upon receiving the notice of appointment, the chief clerk of the senate and the chief clerk of the house of /s/ Representatives shall notify the members of their respective house and shall refer the notice of appointment to the appropriate standing committee of their respective house as provided by the rule.

(b) The Tennessee bureau of investigation shall perform appropriate financial and criminal background investigations of a judicial appointee and shall provide the results of the investigations and inquiries to the chair of any standing committee of the general assembly to which a notice of appointment pursuant to subsection (a) is referred.

(c) The chair of any standing committee of the general assembly to which a notice of appointment pursuant to subsection (a) is referred may, in accordance with the rules of the applicable house, conduct a hearing, vote to recommend confirmation or rejection of the appointee, and submit a written report of the action taken to the applicable clerk.

(d) Within the appropriate sixty-day period established in accordance with § 17-4-103, the general assembly shall meet in joint session for the purpose of voting either to confirm or to reject the governor's appointee. The votes of each house shall be made and tabulated separately. The governor's appointee shall be confirmed if both houses vote to confirm the appointee by a majority of all the members to which each house is entitled. The governor's appointee shall be rejected if both houses vote to reject the appointee by a majority of all the members to which each house is entitled or if one house votes to reject the appointee by at least two-thirds (2/3) of all members to which the house is entitled. If a vote results in any other outcome, then no action is taken and both houses may vote again to confirm or reject, subject to § 17-4-103(b). No vote shall be taken pursuant to this subsection except in joint session.

SECTION 11. Tennessee Code Annotated, Section 17-4-103, is amended by deleting the section in its entirety and by substituting instead the following:

17-4-103.

(a)

(1) If the general assembly is in its annual legislative session when the appointment is made, then the vote, if any, on confirmation of the governor's appointee shall occur within sixty (60) consecutive calendar days immediately following the appointment.

(2) If the general assembly is not in its annual legislative session when the appointment is made, then the vote, if any, on confirmation of the governor's appointee shall occur within sixty (60) consecutive calendar days, beginning on the convening date of the next annual legislative session following the appointment.

(b) If the general assembly fails to reject the governor's appointee within sixty (60) consecutive calendar days, then the appointee shall be deemed confirmed as of the following calendar day, regardless of whether the general assembly is then in session.

SECTION 12. Tennessee Code Annotated, Section 17-4-104, is amended by deleting the section in its entirety and by substituting instead the following:

17-4-104.

(a) A supreme court, court of appeals, or court of criminal appeals judge confirmed in accordance with this part shall commence service in the office to which the judge was confirmed:

(1) Upon confirmation, if the judge is confirmed to fill a vacancy for an unexpired term;

(2) September 1, if the judge is confirmed to a full eight-year term prior to the September 1 on which the term begins; or

(3) Upon confirmation, if the judge is confirmed to a full eight-year term after the eight-year term has commenced on September 1. The eight-year term of a supreme court, court of appeals, or court of criminal appeals judge confirmed after September 1 shall end on the same date as a judge confirmed on or prior to September 1.

(b) If the governor's appointee is rejected by the general assembly or is withdrawn by the governor within sixty (60) calendar days of the applicable date set out in § 17-4-103(a), then the governor shall appoint another individual for a full term or to fill a vacancy as provided in this part. Any appointee who has been rejected by the general

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assembly is not eligible for reappointment to the same court, until after the next regular August election occurring at least one (1) year following the appointment.

SECTION 13. Tennessee Code Annotated, Section 17-4-105, is amended by deleting the section in its entirety and by substituting instead the following:

17-4-105.

(a) A judge, who has been appointed and confirmed for a full eight-year term on the supreme court, the court of appeals, or the court of criminal appeals and who takes office on September 1 at the beginning of the eight-year term or in accordance with § 17-4-104(a)(3), shall face a retention election at the next regular August election immediately preceding the end of the eight-year term, as provided in § 17-4-106.

(b) A judge, who has been appointed and confirmed to fill a vacancy for an unexpired term on the supreme court, the court of appeals, or the court of criminal appeals more than thirty (30) days prior to the next regular August election, shall stand for election in a retention election for the remainder of the term at the next regular August election following confirmation as provided in § 17-4-106.

(c) A judge, who has been appointed and confirmed to fill a vacancy for an unexpired term on the supreme court, the court of appeals, or the court of criminal appeals thirty (30) days or less prior to a regular August election, shall stand for election in a retention election at the next regular August election occurring more than thirty (30) days following the judge's confirmation as provided in § 17-4-106.

(d) All incumbent judges of the supreme court, the court of appeals, and the court of criminal appeals who intend to stand for election for another eight-year term, shall stand for election in a retention election at the regular August election immediately preceding the end of the eight-year term as provided in § 17-4-106.

(e) The judges appointed in 2014, 2015, and prior to the effective date of this act in 2016, to fill vacancies on the supreme court, the court of appeals, and the court of criminal appeals, whose names were not included on the regular August 2014 ballot, shall, upon filing a timely written declaration of candidacy pursuant to § 17-4-106 not later than twelve o'clock (12:00) noon, prevailing time, on April 7, 2016, stand for election in a retention election in the regular August election in 2016.

SECTION 14. Tennessee Code Annotated, Section 17-4-106, is amended by deleting the section in its entirety and by substituting instead the following:

17-4-106.

(a) An incumbent judge of the supreme court, the court of appeals, or the court of criminal appeals who seeks to be retained in the office to which the incumbent judge was appointed and confirmed must qualify by filing with the state election commission a written declaration of candidacy to be retained for a full term or an unexpired term. The

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declaration must be filed not later than twelve o'clock (12:00) noon, prevailing time, on the first Thursday in January before the regular August election. A judge confirmed after the first Thursday in January in the same year as the regular August election must file the declaration no later than the first Thursday occurring at least one (1) full week after the judge's confirmation. After timely filing the declaration, a candidate may withdraw by filing a notice of withdrawal with the state election commission not later than twelve o'clock (12:00) noon, prevailing time, on the seventh day after the deadline for filing the declaration of candidacy.

(b)

(1) If the declaration of candidacy is timely filed, then only the name of the candidate, without party designation, shall be submitted to the qualified voters of the state in the regular August election. Each county election commission of the state shall cause the following to be placed on the ballot:

Shall (Name of Candidate) be retained in office as a Judge of the (Name of Court) or be replaced?

Retain

OR

Replace

(2) If the declaration of candidacy is not timely filed, then the judge's name shall not be submitted to the qualified voters of the state.

(c)

(1) If a majority of those voting on the question vote to retain the candidate, then the candidate is duly elected to the office and shall be given a certificate of election.

(2) If a majority or one-half (1/2) of those voting on the question vote not to retain the candidate, then a vacancy exists in the office as of September 1 following the regular August election. The governor shall fill the vacancy subject to confirmation by the general assembly in accordance with this part.

(3) A candidate who has been defeated in any retention election held under this chapter shall not be eligible for reappointment to the seat for which the candidate was defeated until one (1) regular August election has occurred subsequent to the defeat.

(d) An incumbent judge on the supreme court, the court of appeals, or the court of criminal appeals who does not file a declaration of candidacy for election within the prescribed time, who withdraws as a candidate for election, or who is not retained in a

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retention election, shall end the judge's term on August 31 of that year. The governor shall fill the office subject to confirmation by the general assembly in accordance with this part.

SECTION 15. Tennessee Code Annotated, Sections 17-4-107 - 17-4-120, are amended by deleting the sections in their entireties.

SECTION 16. Tennessee Code Annotated, Section 4-29-238(a), is amended by adding the following language as a new, appropriately designated subdivision:

Trial court vacancy commission, created by § 17-4-301;

SECTION 17. Tennessee Code Annotated, Title 17, Chapter 4, is further amended by adding the following new part 3:

17-4-301.

(a) There is established as a part of the judicial branch of the state a trial court vacancy commission, referred to in this part as "the commission," that shall have jurisdiction over all trial court vacancies occurring on or after February 1, 2016. For purposes of making the initial appointments to the commission, the speaker of the senate and the speaker of the house of /s/ Representatives are authorized to make appointments upon the effective date of this act. The commission shall be composed of eleven (11) members as follows:

(1) Five (5) members shall be appointed by the speaker of the senate. At least three (3) of these members shall be attorneys;

(2) Five (5) members shall be appointed by the speaker of the house of /s/ Representatives. At least three (3) of these members shall be attorneys; and

(3) One (1) member shall be appointed by joint action of the speaker of the senate and the speaker of the house of /s/ Representatives. This member shall be an attorney and shall serve as chair of the commission.

(b)

(1) In order to stagger the terms of the newly appointed commission members, initial appointments shall be made as follows:

(A) One (1) of the initial appointments by the speaker of the senate shall be made for a term of two (2) years;

(B) One (1) of the initial appointments by the speaker of the house of /s/ Representatives shall be made for a term of two (2) years;

(C) The speakers' joint appointment shall be made for a term of two (2) years;

(D) Two (2) of the initial appointments by the speaker of the senate shall be made for terms of four (4) years each;

(E) Two (2) of the initial appointments by the speaker of the house of /s/ Representatives shall be made for terms of four (4) years each;

(F) Two (2) of the initial appointments by the speaker of the senate shall be made for terms of six (6) years each; and

(G) Two (2) of the initial appointments by the speaker of the house of /s/ Representatives shall be made for terms of six (6) years each.

(2) After the initial appointments, the terms for all appointments shall comply with §§ 17-4-305 and 17-4-306.

(c) The administrative office of the courts shall develop and post on its web site downloadable information about the commission suitable for viewing by the general public.

17-4-302.

(a) Each member of the commission shall be a citizen of the United States, shall be at least thirty (30) years of age, and shall have been a citizen of this state for at least five (5) years immediately prior to appointment.

(b) Each attorney member shall be duly licensed to practice by the Tennessee supreme court.

17-4-303.

(a) No member of the commission shall be a salaried office holder of this state or the United States, nor shall any member of the commission hold any office in any political party or political organization; provided, that members of the national guard and members of any armed forces reserve organization, any district attorney general or an employee of a district attorney general, or any district public defender or an employee of a district public defender shall not be considered as salaried office holders. This subsection (a) shall not apply to any employee of the attorney general and reporter, except the attorney general and reporter and the solicitor general.

(b) Any member of the commission who becomes a salaried office holder of this state or the United States or who accepts any office in any political party or political

organization shall by doing so vacate the member's office as a member of the commission.

(c) No member of the commission shall be a registered employer of a lobbyist in this state or a registered lobbyist in this state. Any member of the commission who becomes a registered employer of a lobbyist or a registered lobbyist in this state shall by doing so vacate the member's office as a member of the commission.

17-4-304.

(a) The term of office of each member of the commission shall begin on February 1, 2016.

(b) The commission shall have the authority to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

17-4-305.

(a) Except as otherwise provided in § 17-4-301(b) or § 17-4-306, the term of a member of the commission shall be six (6) years.

(b) Members shall be eligible for reappointment for a successive term.

17-4-306.

(a) A vacancy on the commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(b) Any member of the commission who misses four (4) meetings of the commission during the member's term of office shall by doing so vacate the member's office as a member of the commission.

17-4-307.

(a) Members of the commission shall not receive any compensation for their services but shall be reimbursed for their official travel expenses pursuant to policies and guidelines promulgated by the supreme court.

(b) Subject to budgetary restrictions, the administrative office of the courts shall pay or reimburse the necessary expenses authorized or incurred by the commission in the performance of the duties pursuant to policies and guidelines promulgated by the supreme court.

17-4-308.

(a) After February 1, 2016, when a vacancy occurs in the office of chancellor, circuit court judge, criminal court judge, or judge of any other state trial court of record by

death, resignation, retirement, or otherwise, the governor shall fill the vacancy by appointing one (1) of the three (3) persons nominated by the commission. The governor may require the commission to submit one (1) other panel of three (3) additional nominees. Within sixty (60) days following receipt of the additional panel of nominees, the governor shall fill the vacancy by appointing any one (1) of the six (6) nominees certified by the commission.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election occurring more than thirty (30) days after the vacancy occurs.

(c) The commission shall, at the earliest practicable date, hold a public meeting in the judicial district from which the vacancy is to be filled.

(d) Notice of the time, place, and purpose of the meeting shall be given by newspapers, radio news, or television news and by such other means as the commission deems proper.

(e) Any person shall be entitled to attend the meeting and express orally or in writing the citizen's approval of or objections to any suggested nominee for the trial court vacancy. Any licensed attorney may appear and make a statement, oral or written, in support of the attorney's own nomination.

(f) After one (1) public hearing, the commission may hold such additional interviews with the candidates as it deems necessary. The commission shall make independent investigation and inquiry to determine the qualifications of possible nominees for the trial court vacancy and shall endeavor to encourage qualified attorneys to accept nomination and agree to serve if appointed to the trial court vacancy. All hearings, interviews, and meetings of the commission shall be conducted publicly and shall comply with title 8, chapter 44, part 1. Deliberations among the commission members shall occur immediately after the conclusion of the interviews. The commission shall adjourn the public hearing and interviews and deliberate in executive session. The deliberations shall not be open to the public and shall not be required to comply with title 8, chapter 44, part 1. At the conclusion of deliberations among commission members, the commission shall reconvene the public hearing for purposes of voting. When selecting nominees, commission members shall vote anonymously by written ballots, but such ballots shall be collected, announced, and tallied at the meeting by the presiding officer, and a majority of those present and voting shall decide questions. After receiving the commission's panel or panels of nominees, but prior to making an appointment pursuant to subsection (a), the governor shall direct the Tennessee bureau of investigation or other appropriate agencies to perform appropriate financial and criminal background investigations and inquiries of the prospective appointees, and the governor shall review and assess the results of the background investigations and inquiries.

(g)

(1) The application for the position of trial judge shall contain an authorization form permitting the commission to request from the board of judicial conduct and the board of professional responsibility any information, records, files, or other documents, whether in an electronic format or written form, that the board maintains on the applicant. Signing the authorization form has the effect of waiving any statutory or common law confidentiality that may attach to those documents.

(2) If an applicant signs the authorization form, upon request of the commission, the board of judicial conduct and the board of professional responsibility shall furnish the commission with all information, records, files, or other documents, whether in an electronic format or written form, that the board maintains on a person who applies to be a candidate to fill a trial court vacancy.

(h) As soon as practicable, and no later than sixty (60) days from receipt of written notice from the governor that a vacancy has occurred, the commission, with the assent of a majority of all the members to which it is entitled under § 17-4-301(a), shall select three (3) persons whom the commission deems best qualified and available to fill the vacancy, and shall certify the names of the three (3) persons to the governor as nominees for the trial court vacancy. However, if the commission is reliably informed that a vacancy is impending for any other reason, then the commission may meet, select such persons, and certify the names of the nominees to the governor prior to actual receipt of written notice from the governor that a vacancy has occurred.

(i) If the judicial district is one (1) of the five (5) smallest judicial districts according to the 2010 federal census or any subsequent federal census, the commission may submit two (2) names to the governor, although the governor may require the commission to submit one (1) other panel of two (2) additional nominees.

(j) At the next regular August election occurring more than thirty (30) days after the vacancy occurs, the qualified voters of the district shall elect a candidate to fill the remainder of the unexpired term or a complete term, as provided in the general election law in title 2; provided, however, the qualifying deadline for candidates to fill the vacancy shall be determined by the date of the vacancy as follows:

(1) If the vacancy occurs on or before the tenth day prior to the regular qualifying deadline, then the regular qualifying deadline shall apply;

(2) If the vacancy occurs after the tenth day before the qualifying deadline but on or before the thirty-eighth day prior to the next regular August election, then the qualifying deadline shall be twelve o'clock (12:00) noon, prevailing time, on the tenth day after the vacancy is created;

(3) If the vacancy occurs after the thirty-eighth day but on or before the thirty-first day prior to the next regular August election, then the qualifying deadline shall be twelve o'clock (12:00) noon, prevailing time, on the twenty-eighth day before the election; and

(4) Candidates qualifying under subdivisions (g)(2) and (3) must withdraw no later than twelve o'clock (12:00) noon, prevailing time, on the third day after the qualifying deadline; however, no candidate shall withdraw after twelve o'clock (12:00) noon, prevailing time, on the twenty-eighth day before the election.

17-4-309.

All nominees of the trial court vacancy commission shall be attorneys who are duly licensed to practice law in this state and who are fully qualified under the constitution and statutes of this state to fill the office for which they are nominated.

17-4-310.

(a) If the trial court vacancy commission does not furnish a list of three (3) nominees to the governor within sixty (60) days after receipt of written notice from the governor that a vacancy has occurred, then the governor may fill the vacancy by appointing any person who is duly licensed to practice law in this state and who is fully qualified under the constitution and statutes of this state to fill the office.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election occurring more than thirty (30) days after the vacancy occurs.

17-4-311.

The administrative office of the courts shall keep and maintain all records of the trial court vacancy commission as well as furnish the commission with any other secretarial or clerical services or assistance it may require. It is further the duty of the administrative office of the courts to notify all commission members of the date, time, and place of any commission meetings.

SECTION 18. Tennessee Code Annotated, Section 17-4-201, is amended by deleting the section in its entirety.

SECTION 19. Tennessee Code Annotated, Section 16-5-103, is amended by deleting subsection (a) and substituting instead the following:

(a) The judges of the court of criminal appeals shall be elected by the qualified voters of the state in a statewide retention election conducted in accordance with title 17, chapter 4, part 1. Vacancies on the court of criminal appeals shall be filled by the governor in accordance with title 17, chapter 4, part 1.

SECTION 20. Tennessee Code Annotated, Section 38-6-106, is amended by adding the following new subsection (g):

(g) In addition to the authorization of the speaker of the senate and the speaker of the house of /s/ Representatives to request the director of the Tennessee bureau of investigation to conduct a background investigation concerning persons under consideration for appointment to a position of trust and responsibility, the chair of any standing committee to which the governor's notice of appointment has been referred pursuant to § 17-4-102 shall be provided with a background investigation of any gubernatorial appointee to the position of judge of the supreme court, court of appeals, or court of criminal appeals whose appointment will be considered by the committee as provided in § 17-4-102. Any report provided to the chair of the committee shall be treated as a confidential record that is not open to public inspection.

SECTION 21. If any provision of this act or the application thereof to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 22. Being deemed remedial legislation necessary to provide for a fair, orderly, and stable procedure for the appointment and confirmation of state judges, if conflict occurs between the provisions of this act and any other rule of law, statute, whether general or specific, or regulation, the provisions of this act shall control.

SECTION 23. This act shall take effect upon becoming a law, the public welfare requiring it.

/s/ Senator Kelsey

/s/ Representative Lundberg

/s/ Senator Bell

/s/ Representative Dunn

/s/ Senator Stevens

/s/ Representative Lamberth

/s/ Senator Norris

/s/ Representative Beck

/s/ Senator Yarbrow

/s/ Representative Fitzhugh

Rep. Lundberg moved that the Report of the Conference Committee on **Senate Bill No. 1** be adopted and made the action of the house, which motion prevailed by the following vote:

Ayes 86

Noes 5

Representatives voting aye were: Akbari, Alexander, Beck, Brooks H., Brooks K., Butt, Byrd, Calfee, Camper, Carr, Carter, Casada, Clemmons, Daniel, DeBerry, Doss, Dunlap, Dunn, Eldridge, Faison, Farmer, Favors, Fitzhugh, Forgety, Gilmore, Goins, Gravitt, Hardaway, Hawk,

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Hicks, Hill M., Hill T., Holsclaw, Howell, Hulsey, Jenkins, Jernigan, Johnson, Jones, Kane, Keisling, Kumar, Lamberth, Littleton, Lollar, Love, Lundberg, Lynn, Marsh, Matlock, McCormick, McDaniel, McManus, Miller, Mitchell, Moody, Parkinson, Pitts, Powell, Powers, Ragan, Reedy, Rogers, Sanderson, Sargent, Sexton C., Sexton J., Shaw, Shepard, Smith, Sparks, Spivey, Stewart, Swann, Terry, Towns, Travis, Turner, Van Huss, Weaver, White D., White M., Williams, Wirgau, Zachary, Madam Speaker Harwell -- 86

Representatives voting no were: Armstrong, Holt, Matheny, Pody, Windle -- 5

A motion to reconsider was tabled.

UNFINISHED BUSINESS

RULES SUSPENDED

Rep. McCormick moved that the rules be suspended in order to allow **House Bill No. 1543** to be heard in the State Government Subcommittee next week, which motion prevailed.

BILLS WITHDRAWN

On motion of Rep. Powell, **House Bill No. 2213** was recalled from the State Government Committee and withdrawn from the House.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Joint Resolution No. 529 Reps. Casada, H. Brooks and Eldridge as prime sponsors.

House Bill No. 700 Rep. Van Huss as prime sponsor.

House Bill No. 1416 Reps. Weaver, Matlock, Johnson and Carter as prime sponsors.

House Bill No. 1458 Rep. Towns as prime sponsor.

House Bill No. 1504 Reps. Halford, DeBerry, Lamberth, Goins, J. Sexton, Keisling, Weaver, Lollar, Reedy, Spivey, Butt, D. White, Camper, Matheny, Sparks, Smith, Pody, Pitts, Moody and Powers as prime sponsors.

House Bill No. 1537 Reps. H. Brooks, M. White, Forgety, Kane and Moody as prime sponsors.

House Bill No. 1558 Rep. Spivey as prime sponsor.

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House Bill No. 1642 Rep. Hardaway as prime sponsor.

House Bill No. 1643 Rep. Hardaway as prime sponsor.

House Bill No. 1675 Reps. Hazlewood, Moody, Swann and Halford as prime sponsors.

House Bill No. 1707 Rep. Shaw as prime sponsor.

House Bill No. 1726 Rep. Dunn as prime sponsor.

House Bill No. 1728 Rep. Marsh as Second prime sponsor.

House Bill No. 1728 Reps. Lundberg, K. Brooks, McManus, Travis, Powers, Johnson and Casada as prime sponsors.

House Bill No. 1810 Reps. Carr, Holt, Swann, Alexander, Forgety, Powers, Littleton and Terry as prime sponsors.

House Bill No. 1918 Reps. Littleton, Forgety, Alexander, Carr, Powers and Terry as prime sponsors.

House Bill No. 2028 Rep. Gilmore as prime sponsor.

House Bill No. 2091 Rep. DeBerry as prime sponsor.

House Bill No. 2101 Rep. M. White as prime sponsor.

House Bill No. 2142 Reps. Eldridge and Lynn as prime sponsors.

House Bill No. 2200 Rep. Hulsey as prime sponsor.

House Bill No. 2290 Reps. Sparks, Rogers, Reedy, Gravitt, Keisling, Travis, Calfee, Weaver, Casada, Durham, K. Brooks, Moody, Holsclaw, Eldridge, Goins, Daniel and J. Sexton as prime sponsors.

House Bill No. 2414 Rep. Matlock as prime sponsor.

House Bill No. 2573 Rep. Smith as prime sponsor.

House Bill No. 2574 Rep. Smith as prime sponsor.

House Bill No. 2578 Rep. Williams as Second prime sponsor.

House Bill No. 2578 Rep. Johnson as prime sponsor.

SPONSORS REMOVED

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On Motion, Reps. Sanderson were removed as sponsors of **House Joint Resolution No. 83**.

On Motion, Rep. Shepard was removed as sponsor of **House Bill No. 1303**.

On Motion, Rep. Favors was removed as sponsor of **House Bill No. 1707**.

On Motion, Rep. D. White was removed as sponsor of **House Bill No. 2611**.

**MESSAGE FROM THE SENATE
January 28, 2016**

MADAM SPEAKER: I am directed to transmit to the House, Senate Bill No. 1; For the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**SIGNED
January 28, 2016**

The Speaker announced that she had signed the following: Senate Bill No. 1.

JOE MCCORD, Chief Clerk

**MESSAGE FROM THE SENATE
January 28, 2016**

MADAM SPEAKER: I am directed to return to the House, House Bill No. 703; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**ENGROSSED BILLS
January 28, 2016**

MADAM SPEAKER: The following bills have been examined, engrossed and are ready for transmission to the Senate: House Joint Resolutions Nos. 538, 539, 540, 541, 542 and 544.

GREG GLASS, Chief Engrossing Clerk

**ENROLLED BILLS
January 28, 2016**

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Resolutions Nos. 141 and 142; and find same correctly enrolled and ready for the signature of the Speaker.

GREG GLASS, Chief Engrossing Clerk

**SIGNED
January 28, 2016**

The Speaker announced that she had signed the following: House Resolutions Nos. 141 and 142.

GREG GLASS, Chief Engrossing Clerk

**REPORT OF CHIEF ENGROSSING CLERK
January 28, 2016**

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: House Bills Nos. 176 and 703; also House Joint Resolution No. 537; for his action.

GREG GLASS, Chief Engrossing Clerk

**MESSAGE FROM THE GOVERNOR
January 28, 2016**

MADAM SPEAKER: I am directed by the Governor to return herewith: House Bill No. 238; and House Joint Resolution No. 537; with his approval.

DWIGHT E. TARWATER, Legal Counsel to the Governor

ROLL CALL

The roll call was taken with the following results:

Present..... 88

Representatives present were Akbari, Alexander, Armstrong, Beck, Brooks H., Brooks K., Butt, Byrd, Calfee, Camper, Carr, Carter, Casada, Clemmons, Daniel, DeBerry, Doss, Dunlap, Dunn, Eldridge, Faison, Farmer, Favors, Fitzhugh, Forgety, Gilmore, Goins, Gravitt, Hardaway, Hawk, Hicks, Hill M., Hill T., Holsclaw, Howell, Hulsey, Jenkins, Jernigan, Johnson, Jones, Kane, Keisling, Kumar, Lamberth, Littleton, Lollar, Love, Lundberg, Lynn, Marsh, Matheny, McCormick, McDaniel, McManus, Miller, Mitchell, Moody, Parkinson, Pitts, Pody,

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Powell, Powers, Ragan, Reedy, Rogers, Sanderson, Sargent, Sexton C., Sexton J., Shaw, Shepard, Smith, Sparks, Spivey, Stewart, Swann, Terry, Towns, Travis, Turner, Van Huss, Weaver, White D., White M., Windle, Wirgau, Zachary, Madam Speaker Harwell -- 88

RECESS

On motion of Rep. McCormick, the House stood in recess until 5:00 p.m., Monday, February 1, 2016.